

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY**NOTICE OF FINAL RULEMAKING**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice of the following amendments to selected provisions of Title 14 of the District of Columbia Municipal Regulations. The DCHA's rulemaking authority is found in the District of Columbia Housing Authority Act of 1999 at D.C. Code § 6-202. A Notice of Proposed Rulemaking was published in the D.C. Register on May 8, 2009 at 56 DCR 003695.

The amendments are to Chapter 84, Rent Subsidy Programs: Certifications, to add a new section 8410 and Amend Sections 8902 and 8903 of Chapter 89, Informal Hearing Procedures for Applicants and Participants of the Housing Choice Voucher and Moderate Rehabilitation Programs. Final action to adopt this rule was taken at the Board of Commissioners regular meeting on June 10, 2009. These final rules will be effective upon publication of this notice in the D.C. Register.

8410 Notice, abatement, and termination process for participants who fail to recertify their eligibility.

8410.1 At least one hundred fifty (150) days but no more than one hundred eighty (180) days prior to a participant's Family's anniversary date, DCHA shall send by regular mail to the Family's address a notice informing the head of household of the following:

- (a) The date, time and location of a recertification interview with DCHA staff which shall be at least thirty (30) days from the date of the notice;
- (b) Instructions on how to reschedule the recertification interview if the date in the notice is unacceptable;
- (c) A list of documents and information that must be brought to the recertification interview;
- (d) Notice that failure to attend the recertification interview or to timely and completely provide all required information may result in termination of participation in the Program or the loss of rental assistance; and
- (e) Forms that must be completed prior to the recertification interview will be included with the notice.

8410.2 In the event the Participant fails to attend the recertification interview scheduled in section 8410.1 or does not provide all the requested information in a timely manner, DCHA shall send a notice to the address of the Participant's assisted unit by regular mail informing the Head of the Household of the following:

- (a) The Head of Household failed to attend the scheduled recertification interview and/or they failed to provide the requested information or documentation;
- (b) If the failure was to provide information or documents, the notice shall list the missing information or documents and establish a deadline not less than 15 nor more than thirty (30) days from the date of the notice to provide the missing information or documents. The Participant, or any person acting on his or her behalf, may submit the information on any participant walk-in day or on any other day designated by DCHA. DCHA shall provide written confirmation of all information and/or documents received from the Family;
- (c) If the failure was to attend the scheduled recertification interview, the notice will set a date and time for a second interview that is not less than fifteen (15) nor more than thirty (30) days from the date of the notice, and shall provide a method by which the Head of Household can reschedule that interview if necessary; and
- (d) Notice that failure to attend the second interview and completely comply with the information request may result in termination from the Program and will result in an abatement of the Housing Assistance Payments.

8410.3. In the event the participant fails to attend the second recertification interview scheduled pursuant to section 8410.2 and has not rescheduled that interview, and/or fails to provide the requested information by the deadline, DCHA shall send a notice to the address of the Participant's assisted unit, addressed to the Head of the Household and include the following information:

- (a) The Head of Household has failed to recertify his or her eligibility as required by the regulations governing the Program;
- (b) The Housing Assistance Payments will abate beginning on the date indicated in the notice, which shall be no sooner than thirty (30) days from the date of the notice;
- (c) The Participant will be responsible for payment of the full contract rent until such time as he or she provides all required information;
- (d) The notice shall provide that DCHA shall send a copy of the notice to the landlord;
- (e) The Head of Household has a right to cure the failure to recertify his or her eligibility by:
 - (1) scheduling and attending a recertification interview or meeting with an HCVP employee on a Participant walk-in day;
 - (2) providing all the requested information; and
 - (3) completing the recertification process.
- (f) The date by which the cure must be completed, the cure date, which shall be sixty (60) days prior to the Participant's anniversary date (the "Cure Date");
- (g) The Participant has a right to challenge the abatement of housing assistance payments by requesting an informal hearing in accordance with the

provisions of Chapter 89 of these regulations. So long as the Participant requests a timely hearing, benefits shall continue pending the outcome of the hearing;

- (h) The Participant has the right to request additional time or assistance with the recertification process as a reasonable accommodation of his or her disability;
- (i) If the failure to recertify is cured in a timely manner then the housing assistance payments to the landlord will begin on the first day of the following month.
- (j) No retroactive payments will be made; and
- (k) If the Participant family fails to cure by the Cure Date, then DCHA shall send a notice of termination consistent with the provisions of 14 DCMR 8902.3.

MODIFICATIONS TO CHAPTER 89

ADD: 8902.2 (g) abatement of HAP pursuant to 14 DCMR 8410.3

MODIFY: 8902.3 to delete the sentence “Notices under 8902.1(j) shall be sent by both certified and regular mail.” and substitute with “Notices under this Section and under Section 8401 shall be sent by regular mail to the address for which the assistance is being provided, and to any other address the Participant or his or her representative has provided to DCHA in writing for the purpose of receiving mail (including but not limited to a Post Office box, hospital, treatment facility, other medical facility, or social services agency).

ADD the following subsections to 8903.1:

(f) Notwithstanding the foregoing, an applicant or Participant shall be entitled to a hearing upon request made after the expiration of the thirty (30) day period if the applicant or participant demonstrates good cause for failing to request a hearing within the thirty (30) day period. In determining whether the applicant or Participant has demonstrated good cause, the hearing officer shall consider the following factors, among any others presented by the applicant or Participant:

- (1) Whether the applicant or Participant received notice of the DCHA action for which an informal hearing is sought;
- (2) Whether the applicant or Participant has acted in good faith;
- (3) Whether the applicant or Participant took reasonably prompt action under all the circumstances;
- (4) Whether the applicant or Participant presents a facially meritorious defense or challenge to the DCHA action at issue; and
- (5) Any mitigating circumstances related to a disability, incapacity, or emergency of the applicant or Participant or a member of the household.

(g) The applicant or Participant shall be presumed to have received notice if DCHA can show it was mailed to the applicant at his or her address(es) on record or to a participant at the Participant's address(es) on record, and was not returned to DCHA. The Participant bears the burden of rebutting this presumption by showing, whether by credible testimony or other evidence, that notice was not received. Receipt of actual notice shall not preclude a Participant from establishing good cause as set forth in subsection (f).

(h) Where the challenged action involves termination of assistance or abatement of HAP payments, and the Participant has requested a hearing in accordance with subsection (f), DCHA shall take the following actions:

- (1) If assistance has not yet abated or terminated, DCHA shall continue assistance to the Participant until such time as the hearing officer has determined whether a hearing on the merits shall be granted, and if a hearing is granted, until such time as a final determination has been made according to the procedures provided in these regulations;
- (2) If payments have abated or assistance has terminated, DCHA shall schedule a preliminary hearing to take place within not less than five (5) or more than ten (10) business days of receipt of the request by the Office of Fair Hearings, solely to determine whether the participant has demonstrated good cause as set forth in 8903.1(f). If the hearing officer determines that the Participant has made such a showing, assistance shall be retroactively reinstated to the date of termination, pending a full hearing and final determination according to the procedures provided in these regulations. If DCHA fails to schedule such a preliminary hearing within ten (10) business days, assistance shall be automatically reinstated retroactively, pending the scheduling and outcome of such hearing; or
- (3) The hearing officer shall make his or her best effort to render a decision on the good cause showing on the day of the preliminary hearing but, said decision shall be made no more than three (3) business days after the preliminary hearing.

**DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLES**

NOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in section 1825 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 50-904); section 107 of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104, §107; DC Official Code § 50-2301.07); and Mayor's Order 07-168, effective July 10, 2007, hereby gives notice of the intent to adopt the following rulemaking that will amend Chapter 30 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Adjudication and Enforcement).

The amended rules would permit the use of hand-held electronic ticketing devices as an alternative method for the issuance of moving violations. No comments were received and no changes were made to the text of the proposed rule, as published with a notice of proposed rulemaking in the *D.C. Register* at 56 DCR 4122 on May 22, 2009. The final rule will be effective upon publication of this notice in the D.C. Register.

Title 18 DCMR is amended as follows:

Chapter 30, ADJUDICATION AND ENFORCEMENT, is amended as follows:

A. Section 3000 (NOTICE OF INFRACTION) is amended as follows:

1. Subsection 3000.7 is amended by inserting the phrase "moving or" before the phrase "parking violation".
2. Subsection 3000.8 is amended by inserting the phrase "moving or" before the phrase "parking violation".

B. Section 3002 (ISSUANCE OF PARKING VIOLATIONS ONLY), subsection 3002.6 is amended as follows:

3002.6 When a hand-held electronic device is used, the one-page printout Notice shall constitute the complaint.

C. Section 3003 (ISSUANCE OF MOVING AND NON-MOVING VIOLATIONS) is amended as follows:

1. Subsection 3003.3 is amended to read as follows:

3003.3 When information is entered on the ticket manually, the provisions of §§ 3002.3 through 3002.5 and 3002.9 shall apply.

2. Subsection 3003.4 is amended to read as follows:

3003.4 When a hand-held electronic device is used, the provisions of §§ 3002.6 through 3002.7 and 3002.10 shall apply.

3. Subsection 3003.5 is amended to read as follows:

3003.5 When a violation is detected by an automated traffic enforcement device, any resulting ticket shall be mailed to the owner and the relevant information transmitted to the Department of Motor Vehicles within twenty-five (25) days after the date the violation was detected.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation, pursuant to the authority of sections 3(b), 5(3)(D)(i) and 5(3)(D)(iii) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02(b), 50-921.04(3)(D)(i), and 50-921.04(3)(D)(iii)), and Mayor's Order 2009-23 (March 2, 2009), Title VI of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code §§ 10-1141.01 et seq.); and Mayor's Order 96-8, (February 9, 1996), hereby gives notice of the adoption of the following amendment to add a new Chapter 16 to Title 24 of the Public Space and Safety Regulations. Chapter 16, entitled "Valet Parking," establishes the general provisions governing valet parking services that utilize the District of Columbia's public space.

Proposed regulations were published in a Notice of Proposed Rulemaking on September 8, 2006, in the *D.C. Register* at 53 DCR 7439. In response to the comments received, the regulations were revised to: (1) explain that a person providing valet parking services for a one-time, non-recurring event at a private residence is exempt from having to obtain a valet parking permit; (2) note that a person that has been issued a Certificate of Occupancy must obtain a valet parking permit in order to provide valet parking services; (3) rename a "Valet Parking Zone" to "Valet Staging Zone"; (4) require an applicant for a valet parking permit to verify that the applicant has access to off-street parking spaces in an amount equal to at least 10% (vs. 30%) of the full occupancy rate of the business served; (5) require applicants to post a notice stating intent to obtain a valet parking permit; (6) allow the use of one Valet Staging Zone for several businesses in the same vicinity; (7) state that a material change of a valet parking permit includes a proposed change in the Valet Parking Operator; and (8) clarify that the public space rental fee is \$15/sq-ft. (vs. \$15/linear-ft.).

A second Notice of Proposed Rulemaking was published on June 15, 2007, in the *D.C. Register* at 54 DCR 5850. In response to the comments received, the regulations were revised to: (1) require the Valet Parking permit application to include a copy of the business licenses of all businesses to be served by the Valet Staging Zone; (2) clarify that the Valet Parking Plan must be accompanied by a copy of the Valet Parking Operator's business license issued by the District if the Valet Parking Operator is required to have such; (3) clarify that the Public Space Committee in deciding whether to approve an application may consider violations of the Valet Parking permit or any law or regulation; (4) require the prominent display, by the Valet Parking Operator, of the Valet Parking permit; (5) prohibit parking at a metered parking space; and (6) add as a reason for suspension or revocation of permit "The peace, order, or quiet in the immediate environs of a Valet Staging Zone is negatively impacted."

A third Notice of Proposed Rulemaking was published on February 22, 2008, in the *D.C. Register* at 55 DCR 1809. In response to the comments received, the regulations were revised

to: (1) create exceptions for legal agreements, binding conditions or requirements with other entities such as the Alcoholic Beverage Regulation Administration (ABRA); the Board of Zoning Adjustment (BZA), or community organization(s); (2) establish a separate event venue valet parking permit for the occasional use of valet parking services; (3) simplify and streamline the valet parking application process and operating procedures; (4) clarify the Public Space Committee's role and approval process; (5) note that the annual public space occupancy fee to rent curbside space for valet parking services will be 50¢ per hour per twenty linear feet of street along the curb; and (6) create a fees and penalties section to include a detailed schedule of fines for specific valet parking offenses.

A fourth Notice of Proposed Rulemaking was published on May 8, 2009, in the *D.C. Register* at 56 DCR 3704. Although public comments were received with regard to this rule, no changes have been made since publication as a fourth Notice of Proposed Rulemaking. This final rule will be effective upon publication of this notice in the *D.C. Register*.

TITLE 24 DCMR, **PUBLIC SPACE AND SAFETY**, is amended by adding a new chapter to read as follows:

Chapter 16 VALET PARKING

1600 GENERAL PROVISIONS

- 1600.1 No person shall conduct, operate, maintain, or provide Valet Parking services utilizing public space within the District of Columbia without a permit from the Department. A person providing Valet Parking services for a non-recurring, one-time event at a private residence shall be exempt from the provisions of this chapter.
- 1600.2 A person that has been issued a Certificate of Occupancy and that provides Valet Parking services in public space on an ongoing basis shall obtain either a Standard Valet Parking permit or an Event Venue Valet Parking permit.
- 1600.3 A Standard Valet Parking permit authorizes a Permittee to utilize a Valet Staging Zone on an on-going basis for Valet Parking services. An Event Venue Valet Parking Permit authorizes a Permittee to utilize a Valet Staging Zone for occasional use for Valet Parking services.
- 1600.4 A Permittee shall use a DCRA-licensed Valet Parking Operator to provide Valet Parking services, if such a license is required.
- 1600.5 Upon approval by the Director, full payment of the public space rental fees, and the application review fee specified in this chapter, the Department shall issue a Valet Parking permit for the rental of public space for Valet Parking services.
- 1600.6 Each Permittee shall hold harmless and indemnify the District, and its officers, agents, and employees from all suits, claims, charges, and

judgments to which the District, its officers, agents, and employees may be subject on account of the issuance of a Valet Parking permit, the operation of Valet Parking services, or injury to any person or damage to any property, including the property of the District of Columbia arising in connection with the Permittee's Valet Parking Operator's actions or operations.

1601 STANDARD VALET PARKING PERMIT FEES

- 1601.1 The application fee for an annual Standard Valet Parking permit is Fifty Dollars (\$50) per location, payable at the time the Valet Parking permit application is presented to the Department.
- 1601.2 The annual renewal application fee for a Standard Valet Parking permit is Fifty Dollars (\$50) per Applicant per location.
- 1601.3 The annual public space occupancy fee to rent curbside space for Valet Parking services shall be Fifty Cents (50¢) per hour per twenty linear feet (20 linear-ft.) of street along the curb.
- 1601.4 The Permittee also shall be responsible for any direct costs or loss of revenue incurred by the Department, including costs for creating and installing signs and new sign posts for a Valet Staging Zone and loss of parking meter fee revenue, as a result of the creation or operation of the Valet Staging Zone.

1602 STANDARD VALET PARKING PERMIT APPLICATION PROCEDURE

- 1602.1 An Applicant shall submit an application to the Department to rent public space for a Standard Valet Staging Zone in the District of Columbia to offer Valet Parking services at the same location on an on-going basis. The application form shall be furnished by the Department.
- 1602.2 Each completed Standard Valet Parking permit application shall be accompanied by a Valet Parking Plan that shall include, but not be limited to, the following information:
- (a) The name, mailing address, email address and telephone number of the Applicant(s);
 - (b) A copy of the Applicant's business license(s) issued by the DCRA, if the Applicant is required to have a business license;
 - (c) A copy of the Applicant's Certificate of Occupancy issued by DCRA for the facility used by the Applicant for the business for which the Valet

Parking service will be provided, if the Applicant is required to have one;

- (d) The name, mailing address, email address, and telephone number of the Valet Parking Operator;
- (e) A copy of the Valet Parking license issued by DCRA or other District agency, if the Applicant is required to have such a license;
- (f) A copy of the Valet Parking Operator's liability insurance certificate;
- (g) One (1) original and five (5) copies each of three (3) eight inch by ten inch (8 in. x 10 in.) glossy photographs of the public space, including the curb space and road way, of the proposed Valet Staging Zone. The photographs shall show the following views of the proposed Valet Staging Zone:
 - (1) Frontal view;
 - (2) Sharp angle right side view; and
 - (3) Sharp angle left side view;
- (h) Six (6) copies of a traffic flow plan, including a map, that provides all proposed routes from the Valet Staging area to the off-street parking facility location(s) where the motor vehicles will be parked;
- (i) The name, address, and telephone number of the off-street parking facility where motor vehicles will be parked during Valet Parking hours;
- (j) Verification of access to off-street parking spaces in the off-street parking facility described in subsection (i); and
- (k) Verification that adjacent property owners, i.e. property owners to the immediate left, right, under, and on top of the property, have been provided thirty (30) days advance notice of the Valet Parking application and Valet Parking Plan.

1602.3

The Applicant shall post a notice of its intent to obtain a Valet Parking permit in a conspicuous site at the street frontage near the proposed Valet Staging Zone and on the entrance to the building for thirty (30) days. The Applicant shall make the Standard Valet Parking application and Valet Parking Plan available for public viewing during the thirty (30) day notice period.

1603 STANDARD VALET PARKING PERMIT APPLICATION REVIEW

- 1603.1 The Public Space Committee is responsible for reviewing Standard Valet Parking permit applications.
- 1603.2 The Public Space Committee shall consider the following factors in its review of Standard Valet Parking permit applications:
- (a) Whether the Valet Parking operation will disrupt vehicular or pedestrian traffic;
 - (b) Whether the Valet Parking operation will pose a threat to public safety or welfare;
 - (c) The existence of any legally binding conditions on or requirements of the Applicant's Valet Parking operations approved or imposed by public entities such as but not limited to: the Board of Zoning Adjustment; the Alcoholic Beverage Control Board; or other legally binding valet parking agreements;
 - (d) The size and characteristics of the public space required for the Valet Staging Zone;
 - (e) The anticipated traffic conditions at the time of Valet Parking operations; and
 - (f) In the case of permit renewals, previous violations of the Standard Valet Parking permit conditions, or any provision of this chapter, or any other law or regulation.
- 1603.3 If the Standard Valet Parking application is approved by the Public Space Committee, the Applicant shall be informed in writing.
- 1603.4 If the Standard Valet Parking application is denied, the Applicant shall be informed of the reason for the denial in writing.

1604 STANDARD VALET PARKING STAGING ZONE

- 1604.1 The location of the Valet Staging Zone as well as the size, hours of operation, and dimensions associated with the Valet Staging Zone shall be included in the Valet Parking permit.
- 1604.2 The Department shall post signs indicating the location and hours of operation of each Valet Staging Zone for which a permit has been granted.

- 1604.3 Valet Parking services shall be offered only in the location and during the hours specified by the Department.
- 1604.4 No parking shall be allowed in the Valet Staging Zone during the posted hours of operations.
- 1604.5 The Valet Staging Zone shall be used by the Permittee only for the immediate drop-off and pick-up of motor vehicles during the hours specified in the Valet Parking permit issued by the Department.
- 1604.6 Only motor vehicles being utilized as described in § 1604.5 shall occupy space in a Valet Staging Zone during the posted hours provided that the operator of a motor vehicle may stop momentarily in a Valet Staging Zone to discharge or pick-up passengers.

1605 STANDARD VALET PARKING OPERATIONS

- 1605.1 The Permittee shall prominently display the Standard Valet Parking permit at all approved times when Valet Parking services are offered by the Permittee.
- 1605.2 Notwithstanding 24 DCMR § 108, the Permittee may utilize either a valet stand or a freestanding valet sign, but in no case shall the Permittee utilize both a valet stand and a freestanding valet sign.
- 1605.3 A valet stand located in the public space shall:
- (a) Not occupy more than three feet by three feet (3 ft. x 3 ft.) nor at any time reduce the pedestrian walkway to a clear unobstructed width of less than eight feet (8 ft.) in the Central Business District and six feet (6 ft.) in all other areas of the District;
 - (b) Not be permanently affixed to the public space in any manner;
 - (c) Be easily moveable by one person;
 - (d) Not be placed in public space except during the hours approved for valet parking operations;
 - (e) Indicate any fees for Valet Parking;
 - (f) Include an approved sign attached to the stand not larger than three feet high by three feet wide (3 ft. x 3 ft.) with an area no smaller than 12 inches by 18 inches (12 in. x 18 in.) indicating the name of the Permittee, name of the Valet Parking Operator, the Standard Valet Parking Permit number, and the fee, if any, for Valet Parking;
 - (g) Be secured and locked when left unattended;

- (h) Identify the Permittee and the permit number;
- (i) Be readily visible at the point where motor vehicles are accepted for Valet Parking; and
- (j) Comply with all applicable laws and regulations.

1605.4 A freestanding valet sign located in public space shall:

- (a) Not occupy more than three feet by three feet (3 ft. x 3 ft.) nor at any time reduce the pedestrian walkway to a clear unobstructed width of less than eight feet (8 ft.) in the Central Business District and six feet (6 ft.) in all other areas of the District;
- (b) Not be permanently affixed to the public space in any manner;
- (c) Be easily moveable by one person;
- (d) Not be placed in public space except during the hours approved for valet parking operations;
- (e) Indicate any fees for Valet Parking;
- (f) Be readily visible at the point where motor vehicles are accepted for Valet Parking; and
- (g) Comply with all applicable laws and regulations.

1605.5 Valet Parking services shall be offered only during the hours specified in the Valet Parking permit.

1605.6 Valet Parking Operators shall comply with all applicable traffic laws and parking regulations when providing Valet Parking services.

1606 STANDARD VALET PARKING DUTIES

1606.1 A Permittee who is issued a Standard Valet Parking permit for Valet Parking services shall not park motor vehicles anywhere in the public space, including, but not limited to, on-street parking, on alleys, metered parking spaces, and areas designated as Residential Permit Parking zones.

1606.2 The Permittee shall apply to the Department for any of the following changes to an approved Standard Valet Parking permit. These changes may be approved by the Department without review by the Public Space Committee. These proposed changes may take effect once the Permittee has filed an application with the Department for these changes. Within two (2) weeks of filing an application for any of the following changes, the Department shall issue a revised Standard Valet Parking permit or

shall notify the Applicant in writing that the application is denied, specifically listing the reasons for denial. If denied, the Permittee may appeal the decision of the Department to the Public Space Committee. If an appeal is not filed within fifteen (15) days of the receipt of the notice of denial, the Applicant must revert to operations under the prior approved Standard Valet Parking permit.

- (a) A proposed reduction in the size of the Valet Staging Zone or hours of operation for Valet Parking;
- (b) A change in the name, address, or telephone number of the Permittee;
- (c) A proposed change to the Permittee's business license as issued by DCRA;
- (d) A change in the name, address, or telephone number of the Valet Parking Operator;
- (e) A proposed change to the Valet Parking Operator's liability insurance certificate;
- (f) A proposed change in the Valet Parking Operator;
- (g) A change in the name, or telephone number the off-street parking facility; or
- (h) A proposed change in the location of the off-street parking facility (requires submission of a new traffic flow plan as outlined in § 1602.2(h) of this chapter).

1606.3

The Permittee shall inform the Department in writing of any of the following changes to the approved Standard Valet Parking permit. These proposed changes must be approved by the Public Space Committee. The Department will prepare the revised Valet Parking permit to reflect any changes approved by the Public Space Committee.

- (a) A proposed expansion of or change in the location of the Valet Staging Zone;
- (b) A proposed increase in the hours of operation; or
- (c) A proposed change in the location of the Permittee's business.

1607 EVENT VENUE VALET PARKING PERMIT FEES

- 1607.1 The application fee for an annual Event Venue Valet Parking permit is Fifty Dollars (\$50) per Applicant payable at the time the application is presented to the Department for processing.
- 1607.2 The annual renewal application fee for an Event Venue Valet Parking permit is Fifty Dollars (\$50) per Applicant.
- 1607.3 The annual public space occupancy fee to rent curbside space for Valet Parking services shall be Fifty Cents (50¢) per hour per twenty linear feet (20 linear-ft.) of street along the curb.
- 1607.4 The Permittee also shall be responsible for any direct costs or loss of revenue incurred by the Department, including costs for creating Emergency No Parking signs for a Valet Staging Zone and loss of parking meter fee revenue, as a result of the creation or operation of the Valet Staging Zone.

1608 EVENT VENUE VALET PARKING APPLICATION PROCEDURE

- 1608.1 An Applicant shall submit an application to the Department to rent public space for an Event Venue Valet Parking permit to offer Valet Parking services at the same location on an occasional basis. The application form shall be furnished by the Department.
- 1608.2 Each completed Event Venue Valet Parking permit application shall include, but not be limited to, the following information:
- (a) The name, mailing address, email address and telephone number of the Applicant(s);
 - (b) A copy of the Applicant's business license(s) issued by the DCRA, if the Applicant is required to have a business license;
 - (c) A copy of the Applicant's Certificate of Occupancy issued by DCRA for the facility used by the Applicant for the business for which the Valet Parking service will be provided, if the Applicant is required to have one; and
 - (d) Six (6) eight inch by ten inch (8 in. x 10 in.) glossy photographs of the public space, including the curb space and road way, of the proposed Valet Staging Zone(s). The photographs shall show the following views of the proposed Valet Staging Zone:
 - (1) Frontal view;
 - (2) Sharp angle right side view; and

- (3) Sharp angle left side view.

1609 EVENT VENUE VALET PARKING APPLICATION REVIEW

1609.1 The Public Space Committee is responsible for reviewing Event Venue Valet Parking applications.

1609.2 The Public Space Committee shall consider the following factors in its review of Event Venue Valet Parking applications:

- (a) Whether the Valet Parking operation will disrupt vehicular or pedestrian traffic;
- (b) Whether the Valet Parking operation will pose a threat to public safety or welfare;
- (c) The existence of any legally binding conditions on or requirements of the applicant's valet parking operations approved or imposed by public entities such as but not limited to: the Board of Zoning Adjustment; the Alcoholic Beverage Control Board; or other legally binding valet parking agreements;
- (d) The size and characteristics of the public space required for the Valet Parking operations; and
- (e) In the case of permit renewals, previous violations of the Event Venue Valet Parking permit conditions, or any provision of this chapter, or any other law or regulation.

1609.3 If the Event Venue Valet Parking application is approved by the Public Space Committee, the Applicant shall be informed in writing.

1609.4 If the Event Venue Valet Parking application is denied, the Applicant shall be informed of the reason for the denial in writing.

1610 EVENT VENUE VALET PARKING STAGING ZONES

1610.1 The location(s) and dimensions of all Valet Staging Zone(s) shall be determined by the Department.

1610.2 The Department shall issue Emergency No Parking signs to be posted by the Permittee at least seventy-two (72) hours in advance of the day that Valet Parking services shall be provided to indicate the Valet Staging Zone for Event Venue Valet Parking.

1610.3 The Valet Staging Zone shall be used by the Permittee only during the hours and days posted on the signs issued in accordance with section 1610.2 of this chapter.

1610.4 Only motor vehicles engaged in Valet Parking shall occupy space in a Valet Staging Zone provided that the operator of a motor vehicle may stop momentarily in a Valet Staging Zone to discharge or pick-up passengers.

1611 EVENT VENUE VALET PARKING OPERATIONS

1611.1 Upon confirmation of an event, but in no case later than three (3) days prior to the event the Event Venue Valet Parking Permittee shall:

- (a) Notify the Department of the event and specify the approved location(s) in public space that will be used to conduct Valet Parking operations;
- (b) Provide the name, mailing address, email address, and telephone number of the Valet Parking Operator;
- (c) Provide the Valet Parking Operator's business license number and Valet Parking Operator licensed issued by the District;
- (c) Remit to the Department the fees set forth in § 1607 of this chapter;
- (d) Obtain the appropriate number of Emergency No Parking signs from the Department; and
- (e) Post Department-issued Emergency No Parking signs at least seventy-two (72) hours prior to the confirmed event.

1611.2 The Permittee shall prominently display the Event Venue Valet Parking permit at all approved times when Valet Parking services are offered by the Permittee.

1611.3 Notwithstanding 24 DCMR § 108, an Event Venue Valet Parking Permittee may utilize either a valet stand or a freestanding valet sign, but in no case shall the Permittee utilize both a valet stand and a freestanding valet sign.

1611.4 A valet stand located in the public space shall:

- (a) Not occupy more than three feet by three feet (3 ft. x 3 ft.) nor at any time reduce the pedestrian walkway to a clear unobstructed width of less

than eight feet (8 ft.) in the Central Business District and six feet (6 ft.) in all other areas of the District;

- (b) Not be permanently affixed to the public space in any manner;
- (c) Be easily moveable by one person;
- (d) Not be placed in public space except during the hours approved for valet parking operations;
- (e) Indicate any fees for Valet Parking;
- (f) Include an approved sign attached to the stand not larger than three feet high by three feet wide (3 ft. x 3 ft.) with an area no smaller than 12 inches by 18 inches (12 in. x 18 in.) indicating the name of the Permittee, name of the Valet Parking Operator, the Event Venue Valet Parking permit number, and the fee for Valet Parking;
- (g) Be secured and locked when left unattended;
- (h) Identify the Permittee and the permit number;
- (i) Be readily visible at the point where motor vehicles are accepted for Valet Parking; and
- (j) Comply with all applicable laws and regulations.

1611.5 A freestanding valet sign located in public space shall:

- (a) Not occupy more than three feet by three feet (3 ft. x 3 ft.) nor at any time reduce the pedestrian walkway to a clear unobstructed width of less than eight feet (8 ft.) in the Central Business District and six feet (6 ft.) in all other areas of the District;
- (b) Not be permanently affixed to the public space in any manner;
- (c) Be easily moveable by one person;
- (d) Not be placed in public space except during the hours approved for valet parking operations;
- (e) Indicate any fees for Valet Parking;
- (f) Be readily visible at the point where motor vehicles are accepted for Valet Parking; and
- (g) Comply with all applicable laws and regulations.

1611.6 Valet Parking services shall be offered only during the hours specified in the Emergency No Parking sign(s) issued by the Department.

1611.7 Valet Parking Operator shall comply with all applicable traffic laws and parking regulations when providing Event Venue Valet Parking services.

1611.8 The Permittee shall remove the Emergency No Parking sign(s) no later than the expiration time of the last day stated on the Emergency No Parking signs issued in accordance with section 1610.2 of this chapter.

1612 EVENT VENUE VALET PARKING DUTIES

1612.1 Written notice of each event shall be made to the Department by the Permittee at least three (3) business days prior to the event for which Valet Parking services in the Valet Staging Zone will be provided. The method for providing notification will be established by the Department.

1612.2 The Department shall issue Emergency No Parking signs after a showing by the Applicant that:

- (a) The Event Venue possesses sufficient liability insurance;
- (b) The Event Venue agrees to comply with all applicable laws and regulations; and
- (c) The Event Venue has satisfied all financial obligations under § 1607 of this chapter.

1612.3 The Permittee shall apply to the Department for any of the following changes to an approved Event Venue Valet Parking permit. These changes may be approved by the Department without review by the Public Space Committee. These proposed changes may take effect once the Permittee has filed an application with the Department for these changes. Within two (2) weeks of filing an application for any of the following changes, the Department shall issue a revised Event Venue Valet Parking permit.

- (a) A proposed reduction in the size of any approved Valet Staging Zone;
- (b) A change in the name, address, or telephone number of the Permittee; or
- (c) A proposed change to the Permittee's business license as issued by DCRA.

1612.4 The Permittee shall inform the Department in writing of any of the following changes to the approved Event Venue Valet Parking permit. These changes must be approved by the Public Space Committee. The

Department shall prepare a revised Event Venue Valet Parking permit to reflect any changes approved by the Public Space Committee.

- (a) A proposed expansion of or change in the location of any Valet Staging Zone; or
- (b) A proposed change in the location of the Permittee's business.

1613 PENALTIES, SUSPENSION, AND REVOCATION

1613.1 The following is a schedule of fines that may be assessed against any person providing valet parking on the public space:

- (a) Providing Valet Parking in the public space without the appropriate Valet Parking permit – Three Hundred Dollars (\$300)
- (b) Failure to display a Valet Parking permit – Fifty Dollars (\$50)
- (c) Unauthorized staging – One Hundred Fifty Dollars (\$150) (Applies only to Standard Valet Parking permits)
- (d) Failure to park motor vehicle in off-street facility – Two Hundred Fifty Dollars (\$250) (Applies only to Standard Valet Parking permits)
- (e) Failure to remove Emergency No Parking signs as specified in §1611.8 – Twenty Five Dollars per sign per day (\$25/sign/day) (Applies only to Event Venue Valet Parking permits)
- (f) Failure to notify Department of any change as required for Standard Valet Parking by §§ 1606.2 or 1606.3 or as required for Event Venue Valet Parking by §§ 1612.3 or 1612.4 – Twenty-Five Dollars per change per day (\$25/change/day)
- (g) Parking a motor vehicle in a Valet Staging Zone – One Hundred Dollars (\$100)
- (h) Leaving a motor vehicle awaiting Valet Parking in a Valet Staging Zone beyond ten (10) minutes – One Hundred Dollars (\$100)

1613.2 Upon providing fifteen (15) days written notice to the Permittee, the Department may suspend or revoke a Valet Parking permit for any of the following reasons:

- (a) The Valet Parking operation adversely impacts vehicular or pedestrian traffic;
- (b) The Permittee violates a provision of this chapter or any condition or requirement of the Valet Parking permit;

- (c) The Valet Parking Operator violates a provision of this chapter or the Valet Parking permit;
- (d) The Permittee fails to submit timely payment of the applicable public space rental fees;
- (e) The Permittee fails to inform the Department of any changes as required by section 1606.3 or 1612.4 of this chapter; or
- (f) The peace, order, or quiet in the immediate environs of a Valet Parking zone is negatively impacted.

1613.3 The Department may immediately suspend or revoke a Valet Parking permit if the Valet Parking operations pose a threat to public safety or welfare. The Department must provide notice in writing to the Permittee specifying the reasons for the immediate suspension or revocation no more than fifteen (15) days after the suspension or revocation.

1699 DEFINITIONS

1699.1 When used in this chapter, the following terms shall have the meaning ascribed below:

Applicant – a person who applies for a permit to offer valet parking services. Two or more persons applying jointly for a valet parking permit may be treated as a single applicant.

DCRA – the Department of Consumer and Regulatory Affairs.

Department – the District Department of Transportation.

Event – an occasional gathering such as a party, festival, reception, or other such activity that people attend for a common purpose.

Event Venue – a person holding a certificate of occupancy that owns or operates an establishment providing the location for occasional parties, festivals, receptions, or other such event at which persons gather for such activities.

Immediate – a period of time not to exceed ten minutes and shall represent the maximum time a vehicle is allowed to remain within a Valet Staging Zone.

Motor Vehicle – any vehicle propelled by internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired. The term "motor vehicle" shall not include road rollers, farm tractors, vehicles propelled only upon stationary rails or tracks, electric personal

assistive mobility devices, and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding ten miles per hour (10 miles/hr).

Permittee – a person who is issued a Valet Parking permit by the Department.

Person – a natural person or a corporation, company, firm, agency, association, partnership, organization, individually-owned business, or commercial entity.

Occasional or Occasional Use – less than four (4) times per week.

On-going basis – four (4) or more times per week.

Standard Valet Parking - valet parking provided on an on-going basis, as a service to customers of an establishment with a DCRA-issued Certificate of Occupancy.

Unauthorized Staging – the picking up or dropping off of motor vehicles outside of the approved valet staging zone.

Valet Parking – the act of removing a motor vehicle from the public right-of-way for the benefit of the motor vehicle's operator, regardless of whether a fee is charged for the act. Attendant parking at an off-street parking facility shall not constitute valet parking. A person providing Valet Parking services for a non-recurring, one-time event at a private residence shall be exempt from the provisions of this chapter.

Valet Parking Operator – a person, who through its agents, authorized designees, employees, or representatives, provides the service of valet parking.

Valet Parking Plan – a plan submitted by an applicant that details the location of the valet parking service, the location where motor vehicles will be parked during valet parking hours, and the hours of operation for valet parking.

Valet Sign – a sign, no larger than three feet by three feet (3 ft. x3 ft.) and no taller than four feet (4 ft.), which is not permanently affixed to the public space that indicates the name of the Permittee, Valet Parking Operator, permit number, and any fees to be charged customers for valet parking services.

Valet Staging Zone – the public space adjacent to a curb reserved for valet parking.

Valet Stand – a cabinet or stand with or without an umbrella affixed thereto with a placard affixed in front and a customer key repository and valet ticket compartment that is not permanently affixed to the public space, which indicates the name of the Permittee, Valet Parking Operator, permit number and any fees to be charged to customers for valet parking services.

DEPARTMENT OF YOUTH REHABILITATION SERVICES

NOTICE OF FINAL RULEMAKING

The Director of the Department of Youth Rehabilitation Services, pursuant to Mayor's Reorganization Plan No. 3 of 1986, and in accordance with the D.C. Official Code, Title 2, Chapter 15, Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515), hereby gives notice of the intent to amend sections 1200 through 1211 of Chapter 12 (Community Placement of Juvenile Offenders) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), and to add a new section 1299 to add definitions. During the abbreviated comment period, following the posting of the 2nd Notice of Proposed Rulemaking, DYRS acknowledge receipt of comments; however, after considering these comments, DYRS has determined to publish the rulemaking in final form. These rules shall become effective on June 26, 2009.

The purpose of these amendments is to make changes to the process for reviewing and, if necessary, modifying and/or rescinding a youth's community placement status. These amendments clarify how to initiate the community status review process, the manner in which Community Status Review Hearings are conducted, and the procedure for appealing a decision. These amendments incorporate the phrase "community status review" rather than "revocation" because it better reflects that the objective of a hearing is to review the youth's community placement and that removal from a placement is not automatic.

Sections 1200 through 1211 of Title 29 DCMR are amended to read as follows:**1200 GENERAL PROVISIONS**

- 1200.1 The Department of Youth Rehabilitation Services (DYRS), shall administer community service programs for delinquents and persons-in-need-of-supervision (PINS) who are committed to the legal custody of DYRS by the D.C. Superior Court.
- 1200.2 The provisions of this chapter apply to the supervision and treatment of youth in community placements including: group homes, therapeutic group homes, the youth's own home, a foster home, or similar community placement.
- 1200.3 DYRS retains jurisdiction over the community placement status of youth committed to the agency's custody until one (1) of the following occurs:
- (a) The commitment is terminated by DYRS;
 - (b) The commitment expires; or

- (c) The Court terminates its jurisdiction.
- 1200.4 DYRS shall have sole discretion to make specific placement decisions for youth committed to its custody. In the Matter of J.M.W., 411 A.2d 345 (D.C. 1980) and In Re P.S., 821 A.2d 905 (D.C. 2003).
- 1200.5 The community placement program shall be an alternative to a secure facility. The program consists of placing youth in the least restrictive environment consistent with public safety while being closely supervised by trained DYRS staff.
- 1200.6 Not all youth will benefit from a community placement, and a certain number will commit additional offenses or breaches of their Community Release Agreement that warrant a thorough review of their community status.
- 1200.7 This chapter establishes a review process to determine whether a youth has violated a Community Release Agreement and, if so, whether continued community placement best services the youth's needs and public safety.
- 1200.8 DYRS shall follow the procedures set forth in this chapter when reviewing a youth's community placement.
- 1200.9 This chapter sets forth the process for:
- (a) Reviewing the status of youth in community placement; and
 - (b) Determining whether to place a youth in a secure facility or another more restrictive placement; or
 - (c) Permitting the youth to remain in the community under conditions articulated in a revised Community Release Agreement.
- 1200.10 A youth and/or guardian who is non-English speaking, deaf, or because of a hearing or other communications impediment cannot readily understand or communicate the spoken English language may apply to the agency for the appointment of a qualified interpreter.
- 1200.11 The agency's decision whether to appoint or not appoint a qualified interpreter does not provide the youth or guardian any rights or remedies not otherwise available by law.

1201 COMMUNITY RELEASE AGREEMENTS

1201.1 Department of Youth Rehabilitation Services (DYRS) shall place youth in a community status after a determination that he or she will benefit most from the least restrictive environment consistent with public safety, and with D.C. Official Code § 2-1515.01 *et seq.*, and § 16-2301.02.

1201.3 Each youth shall adhere to the specific terms of Community Release Agreements. The terms include, but are not limited to, the following:

- (a) Attending school or work regularly;
- (b) Meeting curfews;
- (c) Refraining from the illegal use of controlled substances;
- (d) Complying with all federal, state and local laws, rules and regulations; and
- (e) Abiding by all court orders and directives of DYRS case management staff.

1201.4 The DYRS Case Worker shall thoroughly explain the terms of the agreement with the youth and the youth shall sign the Community Release Agreement as a condition of DYRS placing the youth in the community.

1201.5 The Case Worker shall make reasonable efforts to discuss the agreement with the youth's family and/or counsel of record.

1201.6 Counsel of record or alternate counsel may sign the Community Release Agreement after consultation with the youth if the guardian is unavailable. Counsel shall not be called as a witness against the youth if the youth is later alleged to have violated the agreement.

1201.7 Where the youth's community placement is a private residence, the DYRS Case Worker shall thoroughly explain the terms of the agreement with the youth and his or her guardian.

1201.8 The youth and a guardian shall sign the Community Release Agreement as a condition of DYRS placing the youth in a private residence.

1201.9 DYRS shall not place a youth in a private residence unless both the youth and a guardian sign the agreement.

1201.10 The youth shall sign a Community Release Agreement when the level of

restrictiveness is lowered.

- 1201.11 Failure to comply with terms of the Community Release Agreement may result in the youth being placed in an alternative community placement and/or youth's community placement being rescinded.

1202 RESCISSION OF COMMUNITY PLACEMENT STATUS

- 1202.1 DYRS shall hold youth, who have entered into a Community Release Agreement, accountable for behavior contrary to public safety or the terms of the Community Release Agreement.

- 1202.2 DYRS shall initiate a review of the youth's community placement status within three (3) business days and shall convene a Community Status Review Hearing when DYRS becomes aware that a committed youth has been charged for the commission, attempted commission, or conspiracy to commit any of the following:

- (a) Homicide, attempted homicide, or assault with intent to commit homicide;
- (b) Sexual abuse in the 1st or 2nd degree, forcible rape, attempted forcible rape, assault with intent to commit forcible rape, or sodomy;
- (c) Robbery while armed, attempted robbery while armed, robbery, attempted robbery, assault with intent to commit robbery while armed;
- (d) Carjacking;
- (e) Armed Carjacking;
- (f) Burglary;
- (g) Kidnapping;
- (h) Arson;
- (i) Assault with intent to kill;
- (j) Malicious disfigurement;
- (k) Manslaughter;
- (l) Mayhem; or

(m) Murder.

1202.3 DYRS shall initiate a review of the youth's community status within three (3) business days and may convene a Community Status Review Hearing if:

- (a) DYRS becomes aware that a youth has violated two or more terms of their Community Release Agreement;
- (b) DYRS becomes aware that a youth has violated a term of their Community Release Agreement at least twice;
- (c) DYRS becomes aware that a youth has unjustifiably absconded from the placement specified in the Community Release Agreement; or
- (d) DYRS Case Worker determines, based upon on a complete evaluation of the youth's performance under the Community Release Agreement, that he or she should initiate the Community Status Review process.

1203 COMMUNITY STATUS REVIEW

1203.1 The DYRS Case Worker responsible for the youth who is arrested and charged with any criminal offense cited in subsection 1202.2, shall process the documentation for a Community Status Review Hearing within three (3) business days of notification of the arrest or latest violation.

1203.2 During the three (3) business days mentioned in subsection 1203.1, the DYRS Case Worker shall complete all documentation, including a recommendation for the Community Status Review Hearing, and meet with the appropriate supervisor.

1203.3 The DYRS Case Worker Supervisor or designee shall review services provided to the Youth and the basis for the Case Worker's recommendation.

1203.4 The DYRS Case Worker Supervisor or designee, after his or her review, may recommend:

- (a) The DYRS Case Worker implement additional services;
- (b) A Youth/Family Team Meeting; or

- (c) The youth's status be reviewed at a Community Status Review Hearing.
- 1203.5 The DYRS Case Worker Supervisor or designee shall send the documentation to the Case Management Division Program Manager explaining the decision to convene a Community Status Review Hearing within one (1) business day of the DYRS Case Worker completing the documentation and meeting with the appropriate supervisor. The DYRS Case Worker shall place the documentation in the youth's case file.
- 1203.6 The DYRS Case Worker Supervisor or designee shall transmit all of the documentation to the Case Management Division Program Manager. This documentation shall detail the circumstances of the arrest, charges, or violations of the Community Release Agreement including:
- (a) The date and time of the offense(s) or violation(s);
 - (b) The report of the arresting officer, if applicable;
 - (c) The nature and seriousness of the charge(s), arrest or violation(s);
 - (d) The progress of the youth in community placement before the offense or violation took place;
 - (e) A copy of the Community Release Agreement with required signatures; and
 - (f) The Case Worker's effort to identify and secure additional or alternative services that might be provided to the child in the community.
- 1203.7 If a police report is provided, it shall also be included in the transmitted documentation. If a police report was not written, the documentation shall indicate the source of the information on which the Case Worker is relying.
- 1203.8 All documentation shall be delivered to the Case Management Division Program Manager or designee. No more than four (4) business days should pass between the time DYRS is informed of the charge or violation and transmitting the documentation to the Case Management Division Program Manager or designee.
- 1203.9 Unless the delay would result in undue prejudice to the youth, a failure of DYRS to meet any of the timelines established herein shall not be the sole reason affecting the decision or ability to conduct a community status review.

1204 EMERGENCY REMOVALS

1204.1 The following procedures shall apply to Emergency Removals Without Youth's Consent:

- (a) The DYRS Case Worker shall remove the youth from his or her placement, and place the youth in a secure DYRS facility, emergency shelter, in-patient drug treatment or appropriate medical or mental health facility when a youth in a community placement presents a clear and present danger to himself, herself or others, and requires immediate removal from a non-secure placement.
- (b) The DYRS Case Worker shall request a custody order from the court for the youth so that the Metropolitan Police Department ("MPD") has the authority to take the youth into custody if the youth is unwilling to be removed by the Case Worker.
- (c) The Case Worker shall provide the Chief of Committed Services or designee with a summary of the basis for the youth's removal.
- (d) The Chief of Committed Services or designee shall make an independent probable cause determination based on the Case Worker's documentation within one (1) business day of the youth being removed.
- (e) The Community Status Review Hearing shall convene within five (5) calendar days of a youth's emergency removal if the Chief of Committed Services or designee determines that there is probable cause to believe that the youth violated the terms of his or her Community Release Agreement and that he or she is a clear and present danger and requires immediate removal from a non-secure placement. If the fifth calendar day is a Sunday or legal holiday, the hearing shall convene the next business day.
- (f) DYRS shall return the youth to his or her community placement if the Chief of Committed Services or designee determines that there is no probable cause to securely confine the youth.
- (g) The Case Worker may request a Community Status Review Hearing in accordance with subsection 1202.3, in cases where there is a no probable cause determination.
- (h) DYRS shall provide notice of the Community Status Review Hearing to the youth and counsel of record, or if counsel of record

is unavailable, then alternate counsel, in any manner reasonably calculated to put the receiving party on notice.

- (i) DYRS shall make all reasonable efforts to provide notice to the guardian(s).
- (j) Notice may include, but is not limited to, actual notice, notice left on answering machine, by telephone, electronic mail, facsimile, or notice hand-delivered to the office of the counsel of record, or alternate counsel and to the guardian's home in addition to the forms of notice in subsection 1207.4.
- (k) DYRS shall make a note in the youth's case file, and signed by the individual who provided the notice, if the notice is made via telephone, answering machine, electronic mail, facsimile or hand-delivery.
- (l) DYRS shall notify the Office of the Attorney General, Juvenile Section of the emergency removal and the date and time of the hearing.
- (m) DYRS may continue the hearing for up to an additional five (5) business days if the counsel of record and alternate counsel are unavailable at the date and time for which the hearing is scheduled.

1204.2 The following procedures shall apply to Emergency Removals with the Youth's Consent:

- (a) If a youth in a community placement presents a clear and present danger and requires immediate removal from a non-secure placement, or pending a transfer to a new placement, DYRS may remove the youth to another placement upon the youth's written consent after having the opportunity to consult with counsel of record, or alternate counsel, if counsel is unavailable.
- (b) If a youth is removed from his or her community placement pursuant to subsection 1204.2 (a), and is admitted to an in-patient drug, medical, mental health facility or similar in-patient facility for treatment, the Community Program Specialist, the youth, and guardian or counsel of record, or if the youth's counsel is unavailable, alternate counsel, shall sign a written consent agreeing to waive a Community Status Review Hearing.
- (c) The Case Worker shall place the consent form, waiving the right to have a hearing and signed by the youth or youth's counsel, in the youth's case file.

- (d) Upon the youth's discharge from the facility, the youth shall:
- (1) Return to the placement he or she enjoyed immediately prior to the treatment; or
 - (2) Return to a placement with the same or lower level of restrictiveness.
- (e) A youth's community placement is not revoked.

1205 RECOMMENDATION OF CASE MANAGEMENT DIVISION PROGRAM MANAGER

- 1205.1 A Case Management Division Program Manager or designee shall review the request for Community Status Review Hearing and accompanying documents, and make an independent decision regarding the need for a hearing.
- 1205.2 If the Case Management Division Program Manager or designee concurs with the basis for convening a Community Status Review Hearing, he or she may recommend to the Chief of Committed Services that there is a sufficient basis to schedule a Community Status Review Hearing.
- 1205.3 If the Case Management Division Program Manager or designee disagrees with the basis for initiating the Community Status Review Hearing, she or he may use discretion to request that the Case Worker convene a Youth/Family Team meeting or make referrals for the youth for alternative community services.
- 1205.4 The Case Management Division Program Manager or designee shall document the basis for the conclusion that she or he reaches under § 1205 and shall include that documentation in the youth's case file.

1206 RECOMMENDATION OF DYRS CASE MANAGEMENT DIVISION

- 1206.1 The final decision to schedule a Community Status Review Hearing shall be made by the Chief of Committed Services or designee. After receiving the recommendation from the Case Management Division Program Manager or designee, the Chief of Committed Services or designee shall make a determination. The youth's case file shall include a memorandum identifying the reason(s) for the decision taken.
- 1206.2 If the Chief of Committed Services or designee concurs, he or she shall contact the Community Program Specialist or designee the same business

day and follow the procedures set forth in §§ 1207, 1208, 1210 and 1211.

- 1206.3 If the Chief of Committed Services or designee disagrees, the Chief shall notify the Office of the Attorney General, the youth and the youth's counsel. After consultation, the Chief may use his or her discretion to require the Case Worker to convene a Youth/Family Team Meeting or implement alternative community services.

1207 NOTICE OF COMMUNITY STATUS REVIEW HEARING

- 1207.1 After receiving the recommendation of the Chief of Committed Services or designee, an official notice of the time, place and location of the Community Status Review Hearing shall be sent to the youth, the youth's parent(s) or guardian(s), and counsel of record, or alternate counsel, if counsel is unavailable, by the Community Program Specialist.
- 1207.2 The Community Program Specialist or designee shall also send a copy of the police report, if applicable, the Community Release Agreement, the DYRS Case Worker's recommendation, the decision to proceed with the hearing, progress reports and Youth/Family Team meeting reports.
- 1207.3 Upon request of the youth, the counsel of record or alternate counsel may review the youth's case file in accordance with D.C. Official Code §§ 2-1515.06, 16-2332, and 16-2333.
- 1207.4 The notice to those specified in subsection 1207.1 may be made in any manner reasonably calculated to put the receiving party on notice of the hearing, and may include, but is not limited to actual notice, notice by hand-delivery, electronic mail, facsimile, registered or certified mail, or overnight express delivery, return receipt requested.
- 1207.5 If notice is by hand-delivery, electronic mail or facsimile a note shall be made in the youth's case file and signed by the individual who served the notice.
- 1207.6 DYRS shall retain the receipt that notice was sent or other confirmation in the record as proof of proper notification.
- 1207.7 Notice of any Community Status Review Hearing shall be sent to the Juvenile Section Chief for the Office of the Attorney General when:
- (a) The youth is already committed to DYRS for any felony offense as defined in D.C. Official Code § 23-1331(3) or D.C. Official Code § 23-1331(4); or
 - (b) The youth has been charged with any felony offense as a juvenile

or as an adult as defined in D.C. Official Code § 23-1331(3) and D.C. Official Code § 23-1331(4);

1208 FAILURE TO APPEAR AT A HEARING AND ABSCONDENCE

- 1208.1 After receiving notice, in accordance with § 1207, if the youth fails to appear at the stated time and place, for a Community Status Review Hearing the DYRS Care Manager responsible for the youth shall do the following:
- (a) Ask the Absconder's Unit (MPD) to request a court order for the apprehension and return of the youth to the appropriate facility for failing to comply with official notice to appear at a given time and location;
 - (b) Note in the next progress report on the youth that the failure to appear for the scheduled hearing constitutes a violation of the Community Release Agreement; and
 - (c) Begin intensive efforts to locate the youth and return him or her to the appropriate facility. The DYRS Case Manager may ask for police assistance in apprehending the youth.
- 1208.2 After having received notice, in accordance with § 1207, if a youth fails to appear at the stated time and place for a Community Status Hearing, the panel shall proceed.
- 1208.3 If the panel proceeds with a hearing and rescinds the youth's community status, upon the youth's return the youth shall be held securely for up to five (5) business days pending a second Community Status Review Hearing.
- 1208.4 The time limitations imposed by subsections 1202.2 and 1202.3 shall be tolled by the youth's failure to appear for the scheduled hearing.
- 1208.5 If a youth absconds from a DYRS community placement, the DYRS Case Worker shall inform the Chief of Committed Services or designee and request a custody order.
- 1208.6 Upon the youth's return to custody from abscondence, the DYRS Case Worker shall determine whether or not the youth's community status should be reviewed at a hearing. If the youth is returned to DYRS after an arrest on a new charge, the Case Worker may take into account the decision of the Court concerning release status with respect to any new charges.

- 1208.7 If the Case Worker determines that the youth should return to his or her community placement, the Case Worker shall determine whether to request a Community Status Review Hearing.
- 1208.8 If the Case Worker determines that the youth who had absconded should be held in secure custody, the Case Worker shall provide the Chief of Committed Services or designee with documentation in support of his or her recommendation that the youth be securely held.
- 1208.9 The Chief of Committed Services or designee shall make an independent probable cause determination within one (1) business day, based on the Case Worker's documentation.
- 1208.10 If the Chief of Committed Services or designee determines that there is probable cause to believe that the youth violated the terms of his or her Community Release Agreement and that he or she is a clear and present danger and requires immediate removal from a non-secure placement, DYRS shall conduct the Community Status Review Hearing within five (5) calendar days of the youth's return from abscondence. If the fifth calendar day is a Sunday or legal holiday, the hearing shall convene the next business day.
- 1208.11 If the Chief of Committed Services determines that there is no probable cause to securely confine the youth, DYRS shall return the youth to his or her community placement.
- 1208.12 In cases where there is a no probable cause determination, the Case Worker may request a Community Status Review Hearing in accordance with subsection 1202.3.
- 1208.13 The Chair of the Community Status Review Panel shall provide notice of the time, place and location of the Community Status Review Hearing to the youth, guardian(s), and counsel of record, consistent with § 1207.

1209 HEARING UPON YOUTH'S RETURN FROM ABSCONDENCE

- 1209.1 In those cases where the youth was not present at the scheduled Community Status Review Hearing and the hearing proceeded in his or her absence, the youth may request a second hearing within seventy-two (72) hours of his or her return.
- 1209.2 The post-custody hearing shall occur within five (5) calendar days of the youth's request of a second hearing upon his or her return if the youth is securely detained pursuant to §§ 1204 or 1208. If a youth is not securely detained, a post-custody hearing shall occur within a reasonable amount of time.

1209.3 Proper notification pursuant to § 1207 shall be sent to the youth's guardian(s), and counsel of record indicating the date, time and place of this hearing.

1209.4 All conditions of §§ 1208, 1210 and 1211 shall apply to this hearing.

1210 COMMUNITY STATUS REVIEW HEARINGS

1210.1 All hearings shall be held at the time, place and location shown on the notice to appear before the Community Status Review Hearing form, unless otherwise notified.

1210.2 The Community Status Review Panel shall consist of three (3) DYRS staff, including the Community Program Specialist or designee from the Judicial Processing Unit, from the Department of Youth Rehabilitation Services.

1210.3 Each panelist shall be drawn from DYRS staff with at least two (2) years of experience in the direct care of youth and trained in community review policies and procedures. Case Managers/Workers are not permitted to be on the panel.

1210.4 No one shall serve on the panel who is in anyway involved with the case being heard or has worked with the youth whose community status is being reviewed. This includes facility staff who have worked with the youth.

1210.5 The youth may be represented at the hearing by parents, legal counsel, or any other person whom the youth may designate.

1210.6 DYRS employees, contractors or agents are prohibited from representing a youth.

1210.7 At the hearing, the panel shall inform the youth of his or her right to have counsel of record present, alternate counsel, parent, guardian, or other representative with him or her.

1210.8 The youth, counsel of record, or other representative for the youth is permitted, after consulting with the youth, one (1) brief continuance. All subsequent continuances shall not be provided absent a showing of good cause or extreme hardship.

1210.9 Except as set forth in subsection 1210.10, the panel shall not be responsible in any way for providing witnesses on behalf of the youth whose case is being heard.

- 1210.10 Upon adequate notification by the youth that a witness' presence is necessary, DYRS shall bring a witness within DYRS' control, including youth committed to its care, to the review hearing.
- 1210.11 The youth may bring any other witnesses to the hearing who may assist in putting forth his or her position.
- 1210.12 The youth may question any witnesses or challenge any documents.
- 1210.13 Only evidence that is material to the charges or violations that have made the hearing necessary shall be admitted at the hearing.
- 1210.14 The Community Status Review Panel shall not interview or question the youth about substantive matters concerning any pending criminal or delinquency matters.
- 1210.15 Any information unrelated to the charges or violations shall be disregarded by the panel in reaching its decision about whether the community status should be continued or revoked.
- 1210.16 The panel may consider information unrelated to the charges or violations in its decision on the level of restrictiveness.
- 1210.17 After all testimony has been heard and evidence presented, the panel shall retire to weigh the evidence and statements, and reach a decision.
- 1210.18 The preponderance of the evidence shall be the standard of proof the panel shall use in weighing testimony and other evidence about the charges or violations.
- 1210.19 The Community Status Review Panel shall notify the counsel of record of all hearings where counsel is not present or counsel's presence is waived.

1211 HEARING DECISION, DISPOSITION AND APPEAL

- 1211.1 All hearing decisions shall be read to the youth in the hearing room and the Chair of the Community Status Review Panel or designee shall provide the written findings to the youth, his or her parent(s) or guardian(s), and attorney of record or alternate counsel, and the Chief of the Juvenile Section of the Office of Attorney General within five (5) business days of its issuance.
- 1211.2 If the decision of the panel is to continue the community status, the youth shall be returned to the same placement he or she enjoyed before the hearing was held under either the conditions of the existing Community

Release Agreement or conditions of a new agreement, consistent with subsection 1202.3.

- 1211.3 The panel may decide to permit the youth to remain in the community, but under different conditions spelled out in a new Community Release Agreement, consistent with subsection 1202.3.
- 1211.4 If the decision of the Community Status Review Panel is to terminate the youth's community status, the panel shall determine the youth's level of restrictiveness.
- 1211.5 The Case Worker shall make efforts to identify an appropriate placement, consistent with the youth's level of restrictiveness, and make appropriate referrals within a reasonable time after the Community Status Review Hearing.
- 1211.6 The panel, youth, and attorney of record, alternate counsel, or representative may seek to resolve the case by stipulation, agreed settlement, or consent order.
- 1211.7 The youth may appeal the results of the Community Status Review Hearing, to the DYRS Director within seven (7) business days from receipt of the Community Status Review Panel's written findings.
- 1211.8 The DYRS Director shall review the request for appeal and make a final written determination within ten (10) business days.
- 1211.9 The DYRS Director's final written determination may be appealed to the appropriate venue for review.

A new section 1299 is added to read as follows:

29-1299 DEFINITIONS

- 1299.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

“Business day”- a day of the week consisting of Monday through Friday, and excludes Saturday, Sunday, any legal holiday, or inclement weather that results in a day in which the Court is closed. In addition, a business day is calculated beginning on the day after the triggering event occurs.

“Case Management Division Program Manager”- a DYRS employee who supervises the Case Management Unit in the Committed Services Administration. The Program Manager supervises all of the managers who supervise DYRS Case Workers.

“Chief of Committed Services”- a DYRS employee who supervises the Committed Services Administration, which includes the Oak Hill Youth Center, the Case Management Division, the Judicial Processing Unit, and the Community Residential Programs Unit.

“Clear and Present Danger”- the absence or lack of basic necessities such as food, shelter, or clothing; suicidal actions, tendencies or threats of suicide; serious de-compensating emotional character and mental health; seriously destructive behavior creating an imminent danger to one’s life or health; or engaged in abusive or threatening, or other dangerous conduct thereby creating an imminent danger to self or others.

“Community Release Agreement”- an agreement between the youth and DYRS, that the youth and his/her guardian will agree to certain rules in exchange for being released to the community. This agreement was formerly called an aftercare agreement.

“Community Placement or Community Status”- a status conferred upon a youth who has been committed to the legal custody of DYRS and housed in the community in a non-secure placement.

“Community Status Review Hearing”- an administrative process to evaluate recommendations for modifying a youth’s community placement.

“Community Status Review Panel”- a group of impartial DYRS employees who are responsible for reviewing the community placement status of a youth.

“Community Program Specialist”- a DYRS employee responsible for scheduling Community Status Review Hearings and is the Chair as well as a member of the Community Status Review Panel.

“DYRS Case Worker”- a DYRS employee who provides case management services to a case load of youth committed to DYRS by the courts.

“DYRS Case Worker Supervisor”- a DYRS employee who supervises a unit of four to six DYRS Case Workers.

“Emergency Removal”- immediate removal from the community and subsequent placement in a more restrictive setting after a determination has been made that the youth presents a clear and present danger to himself or others.

“Guardian”- a natural or adoptive parent whose parental rights have not

been judicially terminated, a person appointed by the court, or legal custodian.

“Non-Secure Placement”- a community placement which is not locked and which allows for unsupervised movement in and out of the placement and allows youth to participate in various community activities, such as school, employment or other activities consistent with the youth’s Community Release Agreement.

“Probable Cause”- a reasonable belief that an event or action occurred or existed, or is likely to occur or exist.

“Secure Facility”- a locked residential placement which provides treatment and/or educational programs within the facility and does not allow for unsupervised movement within or outside of the facility.

“Youth/Family Team Meeting”- a group of individuals involved in the case planning and development of treatment and educational plans for the youth and family.

“Violation”- an act that is non-compliant with the terms of the Community Release Agreement.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

AND

Z.C. ORDER NO. 06-32

Z.C. Case No. 06-32

(Text Amendment – 11 DCMR)

(Text amendments to include Square 766 in the Capitol South TDR receiving zone)

January 12, 2009

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of the following amendments to §§ 1709.18, 1709.21, 3010.2, 3022.1, and 3027.4 of the Zoning Regulations (Title 11 DCMR).

The text amendments add Square 766 to the Downtown Development Overlay District’s Capitol South receiving zone; but require Zoning Commission review and approval of the portion of any building in Square 766 that exceeds 90 feet.

A Notice of Proposed Rulemaking was published in the *D.C. Register* (“DCR”) on November 28, 2008, at 55 DCR 12162. The Commission took final action to adopt the amendments at a public meeting on January 12, 2009 without making changes to the proposed text. This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

The Downtown Development (“DD”) Overlay District allows certain types of projects to generate additional development rights, which in some cases may be used on site, and in all instances may be transferred to lots located within the Housing Priority Area of the Overlay or to C-3-C properties located in one of the five receiving zones identified in §§ 1709.15 through 1709.19. These transferrable development rights (“TDRs”) can be used to increase the height of receiving zone properties above the 90 foot maximum.

Square 766 is zoned C-3-C, but not included in any receiving zone.

Description of Text Amendment

This rulemaking amends § 1709.18 to add Square 766 to the Capitol South receiving zone. Ordinarily, this would increase the potential height of buildings within the square to that permitted under the Height Act. However, this rulemaking also amends § 1709.21 to allow such additional height only if sufficiently setback from the eastern building face to avoid shadowing the lower buildings in Square 797 to the east and if the added height will provide a suitable northern focal point for the Canal Blocks Park.

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The Commission is to make these determinations after a hearing, but these rules allow for the hearing to be scheduled without a setdown meeting.

Relationship to the Comprehensive Plan

The requested text amendment is not inconsistent with the District Elements of the Comprehensive Plan for the National Capital: (“Comprehensive Plan”), adopted through the Comprehensive Plan Amendment Act of 2006, effective March 8, 2007 (D.C. Law 16-300). The Future Land Use Map of the Comprehensive Plan labels Square 766 suitable for high density commercial, which permits mixed-uses.

Set Down and Re-advertisement

This case was initiated when the Office of Zoning received a petition from Washington Telecom Associates, LLC, the lessee of the building that occupies the square. The Office of Property Management (“OPM”) of the District of Columbia Government subleases the space. At the time the petition was filed, the parties were negotiating Washington Telecom’s possible purchase of the sublease.

The petition proposed no constraint on building height. The Office of Planning’s (“OP”) initial report expressed concern over the impact of such unconstrained height, but indicated it would not object to the matter being set down for hearing, which the Commission did at its September 11, 2006 public meeting. At the Petitioner’s request the hearing scheduled for March 5, 2007 was postponed until June 14, 2007; and then indefinitely postponed while it continued to negotiate with OPM.

Approximately a year later, OP, on behalf of OPM, requested that this matter be again scheduled for a public hearing; with the *caveat*, that OP, might request a more restrictive provision than being advertised. The Office of the Attorney General concluded that a new setdown was not required under these circumstances nor was it necessary to obtain the consent of the Petitioner to go forward.

Public Hearing

The Commission held a public hearing on October 27, 2008. Through its final report, OP recommended the height review process discussed above, and indicated its support for the proposal if its recommendation was accepted. No other testimony was presented and Advisory Neighborhood Commission (“ANC”) 6D, the ANC within which Square 766 is located, did not submit a report.

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Proposed Action

The Commission took proposed action to approve the text amendment, including the additional provisions recommended by OP, at a properly notice public meeting held on November 10, 2008.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on November 28, 2008, at 55 *DCR* 12162 for a 30-day notice and comment period. No comments were received.

The proposed rulemaking was referred to the National Capital Planning Commission (“NCPC”) under the terms of § 492 of the District of Columbia Charter. NCPC, through a delegated action dated November 25, 2008, found that the proposed text amendments would not adversely affect the identified federal interests, not be inconsistent with the Comprehensive Plan for the National Capital.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

Final Action

At its properly noticed January 12, 2009 public meeting, the Commission took final action to approve the proposed text amendments.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, are consistent with the purpose of the Zoning Regulations and the Zoning Act, and are not inconsistent with the Comprehensive Plan.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to §§ 1709.18, 1709.21, 3010.2, 3022.1, and 3027.4 of the Zoning Regulations, Title 11 DCMR (new language is shown in **bold** and underlined text and deletions to existing provisions shown in ~~striketrough~~ text):

- A. Chapter 17, DOWNTOWN DEVELOPMENT OVERLAY DISTRICT, is amended by:
1. Amending § 1709.18 to read as follows:
1709.18 The Capitol South receiving zone consists of those portions of Squares 695 through 697, N697, 698, 699, N699, 737 through 742, ~~and~~ N743, **and 766**, each zoned C-3-C.

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2. Amending subsection 1709.21 to read as follows:

1709.21 **Except as provided in the second sentence,** the maximum permitted building height in the New Downtown, North Capitol, Capitol South, and Southwest receiving zones, shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code §§ 6-601.01 to 6-601.09 (~~formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.)~~)), and the maximum permitted FAR shall be 10.0 for buildings permitted a height of one hundred thirty feet (130 ft.), and 9.0 for buildings permitted a lesser height. **A building on Square 766 may exceed a height of ninety (90) feet if the Zoning Commission, after hearing, finds that the additional height:**

- (a) **Will be sufficiently setback from the eastern building face to avoid shadowing the lower buildings in Square 797 to the east; and**
- (b) **Will provide a suitable northern focal point for the Canal Blocks Park.**

- B. Chapter 30, ZONING COMMISSION PROCEDURES, is amended as follows:

1. Subparagraph 3010.2 (d) is amended to read as follows:

(d) Applications for Zoning Commission review and approval pursuant to Chapters 16 and 18 of this Title, **as well as § 1709.21.**

2. Subsection 3022.1 is amended to read as follows:

3022.1 The procedures set forth in D.C. Official Code § 2-509 (2001), and this section shall apply to applications for a change in the Zoning Map pursuant to § 102 and to applications for planned unit developments, air space developments, and similar plan review activities of the Commission, including those required by Chapters 16 and 18 of this Title, **as well as § 1709.21,** except as otherwise provided in § 3010.7.

3. Subsection 3027.4 is amended to read as follows:

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3027.4 The Commission need not take proposed action with respect to an application for Zoning Commission review and approval pursuant to Chapters 16 and 18 of this Title, as well as § 1709.21, but may take final action in accordance with § 3028, either at the close of the hearing or at a subsequent public meeting.

On November 10, 2008, upon the motion of Chairman Hood, as seconded by Commissioner May, the Commission **APPROVED** the proposed rulemaking at its public meeting by a vote of **3-0-2** (Anthony J. Hood, Peter G. May, and Michael G. Turnbull to approve; Gregory N. Jeffries, not present, not voting; third Mayoral appointee position vacant, not voting).

On January 12, 2009, upon the motion of Chairman Hood, as seconded by Commissioner May, the Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Peter G. May, and Michael G. Turnbull to approve; Gregory N. Jeffries to approve by absentee ballot; William W. Keating, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in *the D.C. Register*; that is, on June 26, 2009.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND**

Z.C. ORDER NO. 08-22

Z.C. Case No. 08-22

(Map Amendment – 11 DCMR)

**(Zoning Consistency Map Amendments Rezoning Portions of Ward 7 from R-5-A to R-1-B,
R-2, R-3, or R-4)
December 8, 2008**

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended: D.C. Official Code § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03) and having referred the proposed amendments to the National Capital Planning Commission (“NCP”) for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of the following amendments to the Zoning Map of the District of Columbia.

These map amendments will protect low- and moderate-density neighborhoods in Ward 7. Many of these neighborhoods, although currently zoned R-5-A, contain a majority of one-family detached and semi-detached dwellings, with interspersed low-rise garden apartments or areas of row dwellings.

A Notice of Proposed Rulemaking was published in the *D. C. Register* (“DCR”) on October 17, 2008, at 55 DCR 10979. The Commission took final action to adopt the amendments at a public meeting on December 8, 2008, making no changes to the proposed rezonings. This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Zoning

These map amendments cover over 100 squares or portions of squares and six parcels (i.e., portions of lots) within Ward 7, all currently zoned R-5-A. The R-5-A zone designation, however, is not consistent with the existing housing types found in the neighborhoods where the squares and parcels are located. The map amendments will change the zoning of these squares and parcels to lower-density residential zones and are intended to ensure that new development, particularly infill development, will be consistent with the prevailing neighborhood character.

Description of Map Amendments

The map amendments will change the zoning of all the affected squares and parcels from R-5-A to either R-1-B, R-2, R-3, or R-4. Two of the squares covered by the proposed map amendments are currently split-zoned R-5 and R-1-B, and will be zoned wholly R-1-B. Of the other squares affected by the map amendment, 47 will be re-zoned R-2; 37 will be re-zoned R-3; and 20 will be re-zoned R-4.

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Relationship to the Comprehensive Plan

Specific language in the 2006 Comprehensive Plan for the National Capital (“Plan”) attempted to ensure that zoning in Ward 7 would become more consistent with the current low- to moderate-density of existing neighborhoods. The Plan’s Future Land Use Map (“Plan Map”) designates the squares and parcels covered by these map amendments as within low- and moderate-density residential areas. In low-density areas, one-family detached and semi-detached dwellings with front, back, and side yards are the predominant uses. In moderate-density areas, row dwellings, flats, and low-rise garden apartments are the predominant uses, but such areas may also contain one-family detached and semi-detached dwellings. In neither type of area are new multiple dwellings permitted, although R-4 zones permit new multiple dwellings if created out of a conversion of a pre-1958 building. This restriction limits the number of new multiple dwellings that can be built within an R-4 Zone District, helping to maintain its moderate-density character.

All the neighborhoods within which the affected squares and parcels are located, although currently zoned R-5-A, exhibit the housing types characteristic of low- to moderate-density neighborhoods. But, these neighborhoods also provide many opportunities for new, particularly infill, development. Therefore, the map amendment is necessary to ensure that the zoning of these squares and parcels, and therefore, any new development on them, corresponds with the real-life low- to moderate-density characters of their surrounding neighborhoods.

The map amendments also further specific elements of the Plan. They are instrumental in implementing several policies of the Land Use Element of the Plan encouraging infill development. Policy LU-1.4 (Neighborhood Infill Development) states that “such development [must be] compatible in scale with its surroundings.” Policies LU-1.4.1 (Infill Development) and LU-1.4.3 (Zoning of Infill Sites) similarly state, respectively, that “infill development ... [s]hould complement the established character of the area,” not creating any “sharp changes in the physical development pattern” and that “zoning of infill sites [must be] compatible with the prevailing development pattern in surrounding neighborhoods.” Without these map amendments, it is easily conceivable that development at a much higher density – up to that permitted in an R-5-A Zone District – could be added on infill sites within neighborhoods with much lower-density characteristics.

The map amendments also encourage increased housing supply in keeping with current neighborhood characteristics, which, in turn, protects overall neighborhood character. (Plan Policy H-1.3.1 (Housing for Families) and LU-2.1.3 (Creating and Maintaining Successful Neighborhoods).) As the squares and parcels covered by the map amendments are located in Far Northeast and Southeast, the amendments also foster the goals of the Plan’s Far Northeast and Southeast Area Element. Policy FNS-1.1.1 (Conservation of Low Density Neighborhoods) specifically states that zoning designations for Far Northeast’s and Southeast’s stable single-family neighborhoods should “reflect and protect the existing low-density land use pattern while allowing infill development that is compatible with neighborhood character” – precisely the goal of these map amendments.

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Set Down Proceeding

In response to the clear Comprehensive Plan direction, the Office of Planning (“OP”) conducted a detailed study of Ward 7 R-5-A-zoned areas and confirmed that there are many areas in Ward 7 where the current R-5-A zoning is not consistent with the existing housing types and densities. OP then determined which areas currently zoned R-5-A would be appropriate to re-zone to a lower-density zone district and initiated these map amendments by filing a set down report with the Commission on July 3, 2008. The Commission agreed and set down the case for a public hearing at its July 14, 2008 public meeting.¹

Public Hearing

The Zoning Commission held a public hearing on the map amendments on September 15, 2008, at which the OP representative testified in favor of the re-zonings. The representative pointed out that OP had carefully studied the areas within ANCs 7A, 7B, 7C, and 7D, and had recommended for re-zoning only those squares and portions of squares where lower-density zoning was appropriate. Therefore, areas now zoned R-5-A where R-5-A zoning is appropriate will remain unchanged. The OP representative also noted that this was the last in a trilogy of map amendments proposed by OP to bring greater consistency between Wards 7 and 8 zoning and the Plan.

There was no opposition to the map amendments expressed at the hearing and no other government agencies filed reports with the Commission.

Great Weight

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) to give great weight to issues and concerns raised in the affected ANCs’ written recommendation. The squares and parcels covered by the map amendments fall within the boundaries of one of the following ANCs: 7A, 7B, 7C, or 7D. Prior to the hearing, representatives of each of these ANCs had met with OP concerning the map amendments and each ANC was notified of the public hearing. None of the ANCs, however, filed a report in the case, therefore, there is nothing to which the Commission can accord “great weight.”

Proposed Action

The Commission took proposed action to adopt the map amendments at the conclusion of the September 15, 2008 hearing. The Notice of Proposed Rulemaking was published in the *D. C. Register* on October 17, 2008 at 55 *DCR* 10979, for a 30-day notice and comment period.

¹At OP’s request, at a Special Public Meeting on July 28, 2008, the Commission waived the street frontage posting requirements of 11 DCMR § 3014.3. Other required forms of notification had been met by OP, including meeting with the impacted Advisory Neighborhood Commissions (“ANC”) and residents.

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The proposed rulemaking was referred to NCPC under the terms of § 492 of the District of Columbia Charter. NCPC, through a delegated action dated September 25, 2008, and a letter to the Commission dated October 6, 2008, found that the proposed map amendments would not adversely affect any identified federal interests, nor be inconsistent with the Comprehensive Plan for the National Capital.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

Final Action

No comments were received on the Notice of Proposed Rulemaking, and at its properly-noticed December 8, 2008 public meeting, the Commission took final action to approve the proposed map amendments. No changes were made to the map amendments set forth in the Notice of Proposed Rulemaking.

Based on the above, the Commission finds that the proposed amendments to the Zoning Map are in the best interests of the District of Columbia, consistent with the purposes of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the following rulemaking action is hereby taken:

The Zoning Map of the District of Columbia is amended as depicted in the following table, with all squares, lots, and parts of lots listed being changed from R-5-A zoning to the “New Zone” listed in the table.

NEW ZONE	SQUARE	LOTS
R-1-B	5546	part of 5, part of 6, part of 800, and part of 806.
R-1-B	5547	part of 833, and part of 852.
R-2	5048 W	802, 804, 812, 814, 816, 818, 820, 822, and 824.
R-2	5087	58-60, 67, 847, 924, 930, 932, 936-944, 946, 947, and 951.
R-2	5088	4, 5, 10-15, 20-23, 45-50, 53, 54, 57, 58, 70-72, 78, 79, 84, 87-90, 103-111, 114, 117-120, 123-126, 131-138, 143-146, 148, 149, 806, 807, 810-817, 820, 821, 825-831, 834-836, 838-851, and 853.
R-2	5089	7-13, 17-19, 22, 25, 26, 34, 35, 38-42, 45, 46, 51, 52, 55-58, 62, 63, 65, 66, 70-75, 802, 803, 805, 807-811, 813, 815-817, and 819-821.
R-2	5090	2-8, 16-19, 32, 54-57, 70-79, 81, 800, 808-814, 817-821, 823-831, 833-835, 837, and 838.

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NEW ZONE	SQUARE	LOTS
R-2	5091	1, 2, 5-8, 19-24, 26-36, 39-44, 49-52, 55-57, 65, 67, 69, 70, 800, 803, 806, 808, 810, 812, 816, 820, 824, 826-835, 837, 839-842, and 2001-2018.
R-2	5092	1, 9, 22-27, 31, 34-41, 50, 52-59, 61-63, 800-808, 816, 818-822, 824-831, and 2001-2011.
R-2	5093	15, 21-26, 203, 808, 817, and 2001-2012.
R-2	5159	part of 802.
R-2	5160	35, 36, 39, 41, 68-70, 802, and 803.
R-2	5178	23-28, 48-51, and 800.
R-2	5179	44-49, 54-63, 72, 73, 78, 82, 83, 88, and 89.
R-2	5201	23-25, 119-122, 807, and 809.
R-2	5202	27-29.
R-2	5232	1-5, and 800-802.
R-2	5246	3, 4, 7, 79, and 81.
R-2	5252	31-34, 44, 72-79, 113-116, 140, 141, 146-199, 811-820, and 823-825.
R-2	5258	24, 25, 28-32, 41-53, 800, and 804.
R-2	5259	7-9, 14-22, 25, 38, 39, part of 40, part of 41, part of 42, 43, part of 800, part of 808, 809-811, and 814.
R-2	5264	part of 7, 54, 57, and 59-61.
R-2	5265	1-3, 47-50, and 53.
R-2	5266	1-6, 11, 12, 15-17, 20-22, 42-44, 50, 55, 800, 802-804, and 2001-2008.
R-2	5267	4-10, 20, 35, 36, 39, 42-45, 54-60, 804, 805, 810, and 811.
R-2	5268	9-13, 22-25, 28, 41, 42, and 809.
R-2	5271	1-3, 6, 7, 18-33, and 803-805.
R-2	5272	17, 25, 26, 32-34, 37, 38, 41-45, 52, 53, 55, and 805.
R-2	5273	15, 16, 36-40, 43, 46, 64, part of 801, and 2001-2009.
R-2	5278	part of 7, 10, 20, 21, 23, and 24.
R-2	5397 S	814, 816, and 818.
R-2	5397	803.
R-2	5410 N	4-10.
R-2	5410	19-22, 25-40, 43, and 44.
R-2	5463	800, 808, and 809.
R-2	5464	41-44.
R-2	5465	9-12, 43, and 44.
R-2	5466	43-46.
R-2	5467	1-6, and 807.
R-2	5480	1, 7, 8, 11, 12, 26, 29, 36-48, 800, 802, and 804-809.
R-2	5481	10, 802, and 804.

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NEW ZONE	SQUARE	LOTS
R-2	5482	23-25, 801, and 802.
R-2	5483	1, 2, 5, 12, 13, 16-18, 20-24, 28-35, 800, and 802-807.
R-2	5484	1, 2, 8-13, 19, 20, 27-30, 34, 35, 40-43, 46, 800, 801, and 803-807.
R-2	5485	1, 2, 7, 8, 11-19, 22, 26-37, and 800-804.
R-2	5486	10, 11, 15-17, 33, 34, and 802.
R-2	5498	84-88, and 95-97.
R-2	5500	1, 2, 5, 6, 8, and 800-802.
R-2	5501	6-15.
R-3	5000 S	60-71.
R-3	5138	135, 809, 810, and 812-819.
R-3	5140	76, 77, 88, and 810.
R-3	5190	5-12, 27-30, 32-35, 37-39, and 806-808.
R-3	5199	73-79.
R-3	5203	24, 25, 29-42, 45, 820, 824, 851, 861, 863, 866, and 878-895.
R-3	5204	part of 18, 19, and 23-36.
R-3	5409	1-5, and 808.
R-3	5414	20-40, 801, 803, and 807.
R-3	5417	53, and 62-97.
R-3	5418	33-44, 51-57, 62-64, 800, and 803-809.
R-3	5419	1-4, 11-15, 21-23, 28, and 29.
R-3	5420	800.
R-3	5421	1-4, 22-27, 802, 805, and 806.
R-3	5425	1, and 5-7.
R-3	5426	8, 9, and 28-31.
R-3	5427	67-76, and 78-97.
R-3	5429	20-24, 800, 805, and 806.
R-3	5430	33-41, 802-807, 809, 810, and 812.
R-3	5431	13, 53-61, 65-81, 805-808, and 811.
R-3	5432	57, 65, and 800-809.
R-3	5434	5-10, 813, and Parcel 203-0009.
R-3	5440	31, 32, 39-41, 803, 804, 806, and 2001-2006.
R-3	5443	800.
R-3	5444	18-21, 58, 59, 61-69, 800-803, 805-811, and 813-817.
R-3	5445	48, 49, 52-54, 800-811, and 813-817.
R-3	5446	42-48, 805-808, 810-814, and 2001-2006.
R-3	5447	39-45, 800-803, 805-807, 809-811, 813, and 814.
R-3	5448	800-802, and 804.
R-3	5449	20, 21, 800, 803, and 807-812.
R-3	5450	35, 39, 40, 803, 805, and 807-813.
R-3	5451	39-43, 801, 803-805, and 807-809.

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NEW ZONE	SQUARE	LOTS
R-3	5452	8, 9, 12-14, 17, 26, 27, 29, 30, 800-803, and 805-809.
R-3	5546	7-9, and 13.
R-3	5547	800-809, 823, 825, 827, 829, and 831.
R-3	5548	13, 14, 91, 92, 100, 101, 114, 115, 803, and 810.
R-3	5627	2, 3, 6, 7, 11-13, 17-21, 38, 41-47, 52-56, 100-111, 800, 809-812, and 2001-2006.
R-4	5076	52-57, 801, and 803-806.
R-4	5077	11-17, 20-25, 31-33, 36-41, 44-46, 49-55, 65-71, 76-80, 94-102, 113-117, 121-132, 134, 804-807, and 809.
R-4	5078	part of 28, 43-45, 49, 50, 53-56, 59-70, 83, 85-89, 813, and 816.
R-4	5086	2, 3, 800-802, 804-806, 808, 810-812, 814-822, 829-833, 842, 844, and 845.
R-4	5172	3-10, 49, 55, 73-88, 92-97, 802-808, 811, and Parcels 184-0042, 184-0046, 184-0046, and 184-0049.
R-4	5173	18, 19, 36, 41-43, 69, 70, 73-75, 86-88, 814, 817, and 820.
R-4	5176	1, 194-207, part of 208, part of 304, 372-374, 801, 803, 805, 807, 837, 839-844, 852, 853, 862, 863, 867, 869, 871, 872, 874-879, 881, 882, 884-886, 890, 891, 895-900, 902, 904, 907-910, 913-915, 918-920, 923-926, 928, 931-934, 937-989, and 994-1029.
R-4	5202	8, 9, 53, and part of 803.
R-4	5552	43-70, 801-803, and 810-816.
R-4	5553	16, 29-38, 805, and 811.
R-4	5554	11-14.
R-4	5555	29-44, 805, 806, and 808.
R-4	5556	11-13, 43-45, 47-60, 806, 814, 821, and 822.
R-4	5581	part of 19, 20-23, 26-29, 38, and 805.
R-4	5582	2-9, and 805.
R-4	5584	37-41, 68, 72-75, 82-84, 90-93, 97, 105, 112, 113, 117-119, 802, 804, 805, 810-815, 818-823, 825, 826, and 829.
R-4	5585	34-43, and 809.
R-4	5586	40, 41, 58, 60-76, 809, and 815.
R-4	5636	5-8, 43-46, 49-51, 57, 61, 64, 66-68, 70, 77, 800, 801, 804-807, 815, 817, and 2001-2020.
R-4	5637	63, 64, 77-83, 90-104, 818, 819, 839, 840, 844, 850, and 852.

On September 14, 2008, upon the motion of Commissioner May, as seconded by Commissioner Etherly, the Zoning Commission **APPROVED** the proposed map amendments at the conclusion of its public hearing by a vote of 5-0-0 (Anthony J. Hood, Gregory N. Jeffries, Curtis L. Etherly, Jr., Peter G. May, and Michael G. Turnbull to approve).

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On December 8, 2008, on a motion made by Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, Peter G. May, and Michael G. Turnbull to adopt; the third Mayoral appointee position vacant, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is on June 26, 2009.